

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSE ANTONIO AGUILAR
JARAMILLO,

Plaintiff,

v.

CITY OF SAN MATEO, et al.,
Defendants.

Case No. [13-cv-00441-NC](#)

**ORDER TO SHOW CAUSE WHY
DEFENDANTS AND THEIR COUNSEL
SHOULD NOT BE SANCTIONED FOR
VIOLATING CONFIDENTIALITY OF
SETTLEMENT CONFERENCE**

Defendants through their counsel Jeffrey Vucinich are ordered to show cause in writing by January 28 at 5:00 p.m., and to appear for hearing on January 29 at 2:00 p.m., in Courtroom 7, San Jose federal courthouse, as to why they should not be sanctioned for violating the rules of this Court by filing a letter on January 26, 2015, that plainly contained confidential settlement conference communications from plaintiff. Dkt. No. 111.

The letter, filed in ECF by defendants' lead trial counsel Vucinich and addressed to me, the undersigned trial judge, states that it is "based on statements made in Plaintiff's Settlement Conference Statement" submitted to Magistrate Judge Lloyd. Dkt. No. 111 at 2. Defendants' letter then excerpts three paragraphs from plaintiff's submission to Magistrate Judge Lloyd. Dkt. No. 111. Magistrate Judge Lloyd has scheduled a settlement conference for January 29. Dkt. No. 86 (settlement conference referral).

In the letter, defendants rely on the plaintiff's settlement conference communications to request a further Court order on motions in limine. Dkt. No. 111.

Under Alternative Dispute Resolution (ADR) Local Rule 7-5(a), "all counsel and parties" shall treat as "confidential information" the contents of any written settlement conference statement. "Confidential information" shall not be: (1) Disclosed to anyone not involved in the litigation; (2) Disclosed to the assigned judge; or (3) Used for any purpose,

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1 including impeachment, in any pending or future proceeding in this court.

2 Here, defendants' January 26 filing appears to violate ADR Local Rule 7-5(a) by
3 disclosing to the assigned judge the contents of plaintiff's confidential settlement
4 conference statement.

5 In addition to violating the rules for settlement conferences, defendants' January 26
6 letter is improper because it violates Federal Rule of Civil Procedure 7(b). A request for a
7 court order must be made by motion, stating with particularity the relief sought and the
8 grounds for seeking relief. Fed. R. Civ. P. 7(b). Finally, the communication appears to be
9 a bad faith effort to undermine the settlement process.

10 The Court will consider as a proportionate sanction all the penalties provided for
11 under the Federal Rules of Civil Procedure and the Court's inherent authority, including a
12 finding of civil contempt of court, monetary sanction, exclusion of evidence, striking of
13 pleadings, default judgment, and staying the proceedings until the Court's orders are
14 obeyed.

15 Plaintiff Jaramillo may (but is not required to) respond in writing by January 29 at
16 9:00 a.m. and may appear at the OSC hearing.

17
18 **IT IS SO ORDERED.**

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21 Dated: January 27, 2015



NATHANAEL M. COUSINS
United States Magistrate Judge